

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 101041 / September 17, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-22121

In the Matter of

PFM FINANCIAL ADVISORS LLC,

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-
AND-DESIST PROCEEDINGS
PURSUANT TO SECTIONS 15B AND
21C OF THE SECURITIES
EXCHANGE ACT OF 1934, MAKING
FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND A
CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 15B and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against PFM Financial Advisors LLC (“PFM Financial Advisors” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (“Offer”) which the Commission has determined to accept. Respondent admits the facts set forth in Section III below, acknowledges that its conduct violated the federal securities laws, admits the Commission’s jurisdiction over it and the subject matter of these proceedings, and consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15B and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds¹ that:

¹ The findings herein are made pursuant to Respondent’s Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Summary

1. The federal securities laws impose recordkeeping requirements on municipal advisors, which are intended to facilitate the Commission’s inspections and examinations of municipal advisors and assist the Commission in evaluating a municipal advisor’s compliance with the applicable federal securities laws, including the rules of the Municipal Securities Rulemaking Board (“MSRB”). These recordkeeping requirements require, among other things, that municipal advisors maintain and preserve all written communications relating to municipal advisory activities for at least five years.

2. These proceedings arise out of the failure of PFM Financial Advisors employees, including at senior levels, to adhere to these recordkeeping requirements and the firm’s own policies. Using unapproved electronic communication methods, these employees communicated with regard to municipal advisory activities both internally and externally by text messages (“off-channel communications”).

3. From at least July 2020 to January 2024 (the “relevant period”), a number of employees of PFM Financial Advisors sent and received off-channel communications relating to municipal advisory activities. PFM Financial Advisors did not maintain or preserve these written communications. PFM Financial Advisors’ failure involved employees at various levels of authority, including both municipal advisor representatives and municipal advisor principals.² As a result, PFM Financial Advisors violated Section 17(a) of the Exchange Act and Rule 15Ba1-8 thereunder, and MSRB Rules G-8 and G-9.

4. Some of PFM Financial Advisors’ supervisors, who were responsible for preventing this misconduct, themselves failed to comply with these recordkeeping requirements, as well as the firm’s own policies, by sending and receiving off-channel communications relating to municipal advisory activities. PFM Financial Advisors failed to implement and maintain a system to supervise the municipal advisory activities of the municipal advisor and its associated persons that is reasonably designed to achieve compliance with applicable recordkeeping requirements. As a result, PFM Financial Advisors violated MSRB Rule G-44. By violating MSRB Rules G-8, G-9 and G-44, PFM Financial Advisors violated Section 15B(c)(1) of the Exchange Act.

Respondent

5. PFM Financial Advisors LLC is a limited liability company headquartered in Philadelphia, Pennsylvania. PFM Financial Advisors has been registered with the Commission

² MSRB Rule G-3(d)(i)(A) defines a “municipal advisor representative” to mean a natural person associated with a municipal advisor who engages in municipal advisory activities on the municipal advisor’s behalf, other than a person performing only clerical, administrative, support or similar functions. MSRB Rule G-3(e)(i) defines a “municipal advisor principal” to mean a natural person associated with a municipal advisor who is directly engaged in the management, direction or supervision of the municipal advisory activities of the municipal advisor and its associated persons.

and the MSRB as a municipal advisor since August 2014³ and was registered during the relevant time period.

Recordkeeping Requirements for Municipal Advisors

6. Section 17(a)(1) of the Exchange Act requires municipal advisors to make and keep for prescribed periods such records, furnish such copies thereof, and make and disseminate such reports as the Commission, by rule, prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the Exchange Act. Exchange Act Rule 15Ba1-8 requires that municipal advisors make and keep true, accurate, and current originals or copies of all written communications received, and originals or copies of all written communications sent, by such municipal advisor relating to municipal advisory activities, regardless of the format of such communications, and for such records to be maintained and preserved for a period of not less than five years, the first two years in easily accessible places.

7. MSRB Rule G-8(h)(i) requires municipal advisors to make and keep current all books and records described in Exchange Act Rule 15Ba1-8(a)(1)-(8), which includes all written communications relating to municipal advisory activities. MSRB Rule G-9(h)(i) requires the municipal advisor to preserve these records for a period of not less than five years.

8. Section 15B(c)(1) of the Exchange Act prohibits municipal advisors from engaging in any act, practice, or course of business that is in contravention of any rule of the MSRB.

Policies and Procedures

9. During the relevant period, PFM Financial Advisors maintained certain policies and procedures designed to ensure the maintenance and retention of municipal advisory-related records, including electronic communications, in compliance with the relevant recordkeeping provisions.

10. PFM Financial Advisors' employees were advised that the use of unapproved electronic communications methods was not permitted, and that they should limit messaging relating to municipal advisory activities to firm email accounts and other specifically approved electronic communication methods.

11. Messages sent through firm-approved communications methods were monitored, subject to review, and, when appropriate, archived. Messages sent through unapproved communications methods were not monitored, subject to review or archived.

12. PFM Financial Advisors had procedures for all employees, including supervisors, requiring self-certification of compliance with the electronic communications policies. PFM

³ PFM Financial Advisors initially registered as Public Finance Management Inc. and subsequently converted to PFM Financial Advisors LLC.

Financial Advisors did not have processes in place to review, test or modify its reliance on employees' self-certifications.

13. All of PFM Financial Advisors' employees that sent or received off-channel communications, including supervisors, certified that they were in compliance with the electronic communications policies yet did not follow these policies. PFM Financial Advisors' reliance on employees' self-certification was not reasonably designed to achieve compliance with recordkeeping requirements because it was not reliable absent appropriate follow-up measures. Accordingly, PFM Financial Advisors' supervisory system was not reasonably designed to achieve compliance with recordkeeping requirements.

Recordkeeping Failures

14. In July 2023, the Commission staff commenced a risk-based initiative to investigate whether municipal advisors were properly retaining messages related to municipal advisory activities that were sent and/or received by employees using unapproved electronic communication methods. PFM Financial Advisors cooperated with the investigation by voluntarily gathering and reviewing messages found on employees' electronic devices.

15. The Commission staff's investigation uncovered off-channel communications at all seniority levels of PFM Financial Advisors. The investigation determined that, during the relevant period, a number of PFM Financial Advisors personnel had engaged in off-channel communications relating to municipal advisory activities involving both other employees of PFM Financial Advisors and external contacts that were not preserved.

16. For example, a municipal advisor principal at PFM Financial Advisors sent a text message to a municipal issuer client advising that if the municipal issuer client did not change the final maturity there would be two more months of debt service, but there would also be two additional months of interest earnings on the investment of bond proceeds at a favorable rate. In another example, a municipal issuer client sent a text message to a municipal advisor principal at PFM Financial Advisors confirming they were engaged, confirming the fee for the engagement, and requesting an updated copy of the agreement for advisory services.

Violations

17. As a result of the conduct described above, during the relevant period, PFM Financial Advisors willfully⁴ violated Section 17(a) of the Exchange Act and Rule 15Ba1-8

⁴ "Willfully," for purposes of imposing relief under Section 15B of the Exchange Act, "means no more than that the person charged with the duty knows what he is doing." Wonsover v. SEC, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting Hughes v. SEC, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts." Tager v. SEC, 344 F.2d 5, 8 (2d Cir. 1965). The decision in The Robare Group, Ltd. v. SEC, which construed the term "willfully" for purposes of a differently structured statutory provision, does not alter that standard. 922 F.3d 468, 478-79 (D.C. Cir. 2019) (setting forth the showing required to establish that a person has

thereunder and MSRB Rules G-8 and G-9, which require municipal advisors to make and preserve for at least five years originals or copies of all written communications received or sent relating to municipal advisory activities.

18. As a result of the conduct described above, during the relevant period, PFM Financial Advisors willfully violated MSRB Rule G-44, which requires municipal advisors to, among other things, implement, and maintain a system to supervise the municipal advisory activities of the municipal advisor and its associated persons that is reasonably designed to achieve compliance with applicable securities laws and regulations, including applicable MSRB rules.

19. As a result of PFM Financial Advisors' willful violations of MSRB Rules G-8, G-9 and G-44, PFM Financial Advisors willfully violated Section 15B(c)(1) of the Exchange Act, which prohibits municipal advisors from making use of the mails or any means or instrumentality of interstate commerce to provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products, the issuance of municipal securities, or to undertake a solicitation of a municipal entity or obligated person, in contravention of any rule of the MSRB.

Remedial Efforts

20. In determining to accept the Offer, the Commission considered remedial steps promptly undertaken by PFM Financial Advisors and the cooperation afforded the Commission staff. Prior to this action, Respondent enhanced its policies and procedures, and increased training concerning the use of approved communications methods and began implementing significant changes to the technology available to employees.

Undertakings

21. In addition, Respondent has undertaken to:

a. Within 180 days of the entry of this Order: (i) establish reasonably designed written policies and procedures regarding the preservation of electronic communications; (ii) conduct a training of all associated persons who engage in municipal advisory activities regarding the preservation of electronic communications, to be provided by a person or entity with relevant expertise in the preservation of electronic communications and recordkeeping requirements under the Exchange Act, the rules and regulations thereunder, and under MSRB Rules; and (iii) establish a program of periodic training of all associated persons who engage in municipal advisory activities regarding the preservation of electronic communications. The written policies and procedures should include the designation of a municipal advisor principal at Respondent responsible for ensuring compliance by Respondent with such policies and procedures and responsible for

“willfully omit[ted]” material information from a required disclosure in violation of Section 207 of the Advisers Act).

implementing and maintaining a record (including attendance) of the initial training and the periodic training program.

b. Certify, in writing, compliance with the undertakings set forth above. The certification shall: (i) identify the undertakings; (ii) provide written evidence of compliance with the undertakings in the form of a narrative; and (iii) be supported by exhibits sufficient to demonstrate compliance with the undertakings. The Commission staff may make reasonable requests for further evidence of compliance with the undertakings, and Respondent agrees to provide such evidence at the time and in the manner specified by Commission staff or advise the Commission staff of any request for further evidence that Respondent considers unreasonable. The certification, written evidence of compliance and supporting exhibits shall be submitted to LeeAnn Ghazil Gaunt, Chief, Public Finance Abuse Unit, Securities and Exchange Commission, 33 Arch Street, 24th Floor, Boston, MA 02110, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than the one-year anniversary of the date of this order.

c. Deadlines. For good cause shown, the Commission staff may extend any of the procedural dates relating to the undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered to be the last day.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent PFM Financial Advisors' Offer.

Accordingly, pursuant to Sections 15B and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent PFM Financial Advisors cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Exchange Act and Rule 15Ba1-8 thereunder and Section 15B(c)(1) of the Exchange Act and MSRB Rules G-8, G-9 and G-44.

B. Respondent PFM Financial Advisors is censured.

C. Respondent PFM Financial Advisors shall comply with the undertakings enumerated in paragraph 21 above.

D. Respondent PFM Financial Advisors shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$250,000 to the Securities and Exchange Commission, of which \$62,500 shall be transferred to the Municipal Securities Rulemaking Board in accordance with Section 15B(c)(9)(A) of the Exchange Act, and of which the remaining \$187,500 shall be transferred to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717. Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying PFM Financial Advisors LLC as the Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to LeeAnn Ghazil Gaunt, Chief, Public Finance Abuse Unit, Securities and Exchange Commission, Boston Regional Office, 33 Arch Street, 24th Floor, Boston, MA 02110.

E. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary